



## CITY OF DURHAM | NORTH CAROLINA

**Date:** May 5, 2015

**To:** Thomas J. Bonfield, City Manager

**Through:** W. Bowman Ferguson, Deputy City Manager

**From:** Jina B. Propst, Assistant Director, General Services Department

**Subject:** Proposed greenway easement acquisitions for the West Ellerbee Creek Trail – Phase II Project

### Executive Summary

The West Ellerbee Creek Trail – Phase II Project (“Project”) design is complete and the City has been working with property owners on easement acquisition required for the trail. Phase II of the trail comprises the Northern Section of the North/South Greenway Trail and is the final stretch of the West Ellerbee Creek Trail. The Project begins at Westover Park on Maryland Avenue, crosses Guess Road and continues along West Ellerbee Creek in a northeasterly direction going under Interstate 85 in an existing overflow box culvert, crossing North Pointe Drive and ending at the Stadium Drive Trail on Stadium Drive near Broad Street. The estimated total project budget is \$2,021,600.00. The project budget is comprised of Federal Congestion Mitigation and Air Quality (CMAQ) CIP funding.

The General Services Department Real Estate Division was tasked with acquiring greenway easements for the Project. Property acquisition for this project requires compliance with Public Law 91-646, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, commonly called the Uniform Act, is the primary law for acquisition and relocation activities on Federal or federally assisted projects and programs.

Independent appraisals for the North Pointe-CGL, LLC property (“Costco”) and the North Pointe Development Associates L.P. property (“Bed Bath & Beyond”) have been reviewed and approved by the regional NCDOT Appraisal Office. General Services Department presented offers to these property owners citing the approved appraisals. The offers were verbally accepted and Options to Purchase the greenway easements are in process.

### Recommendation

The General Services Department recommends that City Council approve:

1. Acquisition of approximately 0.88 acres and grant of additional greenway use of 0.04 acres of existing utility easement across a portion of 1510 North Pointe Drive (Parcel #126269) from North Pointe-CGL, LLC for a purchase price of \$38,000.00.

2. Acquisition of approximately 0.27 acres and grant of additional greenway use of 0.4 acres of existing utility easement across a portion of 1515 North Pointe Drive (Parcel #126268) from North Pointe Development Associates, L.P. for a purchase price of \$18,000.00.

### **Background**

Phase II of the West Ellerbee Creek Trail comprises the Northern Section of the North/South Greenway Trail and is the final stretch of the West Ellerbee Creek Trail. The project budget is comprised of will \$1,081,000.00 in Federal Congestion Mitigation and Air Quality Improvement Program (CMAQ) funding. The City allocated a total of \$940,000.00 toward this project and is scheduled to receive an additional \$1,081,000.00 of Federal CMAQ funding. The CMAQ funding, administered through the NCDOT and the Local Programs Management Office, requires stringent project oversight which will have a significant impact on the overall project schedule and progress.

Greenway easements were originally dedicated for the West Ellerbee Creek Trail Phase II Project in 2001 when the North Pointe development was subdivided. However, the original easements do not comply with current storm water regulation stream setbacks. Additional greenway easement acreage on the Bed Bath & Beyond, Costco, and Bouwfonds North Pointe LP (North Pointe Commons Apartments) properties are needed to accommodate the final trail alignment.

Independent appraisals of the Bed Bath & Beyond and Costco properties were submitted to the NCDOT Staff Appraiser for review. Appraisals considered existing parent tract property values and changes in values due to greenway easement dedications. In March 2015, the NCDOT certified appraiser approved the appraised values of these two properties. In April 2015, Real Estate staff delivered Options to Purchase to the North Pointe Development Associates, L.P. and North Pointe-CGL, LLC property owners based on the NCDOT approved appraisals. The response to these offers has been favorable and staff anticipates closing in May 2015; however, signed Options have not yet been received as of the date of this memo.

North Pointe Commons Apartments has agreed to donate the additional greenway easement needed on their property provided that the City covers legal fees in the amount of \$8,700.00. General Services Department presented an offer to the property owner based on these conditions. As this offer is less than \$10,000.00, the NCDOT requires an Appraisal Waiver in lieu of an appraisal.

### **Issues and Analysis**

As of the date of this memo, the City has not yet received signed Options for the three properties previously discussed. Staff will work diligently to ensure all necessary contracts, deeds, and plats are secured for property closing. Staff anticipates closing on these easements by the end of May 2015.

Although securing the additional greenway easements for the Project has taken substantially more time than originally anticipated, the Project construction schedule has not been adversely affected.

In March 2015 the Federal Board of Transportation assigned the Project a Transportation Improvement Program (TIP) number. The TIP number is an essential milestone and is

required in order for the City begin working with the Local Programs Management Office to draft a Municipal Agreement. This agreement is a contract between the City and NCDOT outlining roles, responsibilities, and funding commitments by both the City and the NCDOT. General Services staff anticipates presenting Council with the Municipal Agreement for review in August 2015. Final execution of the Municipal Agreement is necessary in order to secure Federal CMAQ funding and proceed with the construction bidding.

Staff anticipates the following project schedule:

Municipal Agreement with NCDOT	August 2015
RFQ for Construction Administration	August 2015
Advertisement for Construction	October 2015
Construction Notice to Proceed	February 2016
Substantial Completion ~1 year from NTP	February 2017

### **Alternatives**

City Council could choose not to approve Greenway easement land acquisition. This alternative is not recommended as these easements are required to secure Federal CMAQ funding and move forward with construction of the Project.

### **Financial Impact**

Funds for Easement Acquisition were previously allocated the West Ellerbee Creek Trail – Phase II Project under CH505. The proposed recommendation is for acquisition of two parcels (\$38,000.00 and \$18,000.00) and attendant closing costs totaling \$3,000.00.

#### **Federal Project Funding**

CMAQ	\$ 1,081,600.00
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#### **CH505 Project Funding Sources:**

Zone Impact Fees	\$ 653,000.00
Misc. CIP Revenue	\$ 196,697.46
2013 LOBS	\$ 75,000.00
Misc. Income	\$ 15,302.54
Total appropriated funds	\$ 940,000.00

#### **CH505 Funding Uses Summary:**

Professional Services-Amendment #3	\$ 32,445.00
Design Contingency-Amendment #3	\$ 20,000.00
Current Professional Services	\$ 248,539.50
<b>*Easement Acquisition</b>	<b>\$ 75,000.00</b>
Other Owner's Expenses	\$ 30,000.00
Construction Budget	\$ 485,505.50
Construction Contingency	\$ 48,500.00
Total City Project Budget	\$940,000.00

Total Project Funding

Federal Match	\$ 1,081,600.00
City Match	\$ 940,000.00
Total Project Budget	\$2,021,600.00

**\*Easement Acquisition Summary:**

North Pointe Development Associates, L.P.	\$18,000.00
North Pointe - CGL, LLC	\$38,000.00
Bouwfonds North Pointe, L.P.	\$8,700.00
Closing costs	\$4,500.00
Total Estimated Easement Acquisition Costs	\$69,200.00

**SDBE Summary**

This item does not require review by the Equal Opportunity/Equity Assurance Department.

**Attachments**

Project Overview Map  
Exhibit Maps  
Options to Purchase